

## DELTA PROTECTION COMMISSION

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## FINAL

Minutes of the Delta Protection Meeting  
Thursday, July 25, 1996

1. Call to Order/Roll Call.

The meeting was called to order at 6:30 p.m. Commissioners present were: Broddrick, Calone, Ferreira, Freeman, Herendeen, Chairman McCarty, McGowan, Mello, Sekelsky, Thomson and Yates. Commissioners absent were: Vice Chair Fargo, Murphy, Nottoli, Potter, Salmon, Simas, and Torlakson.

2. Public Comments.

Joe Horn, 3115 Elizabeth Land, Antioch, member of Citizens for Safe Drinking Water, expressed concern about the release of agricultural drainage water into the San Luis Drain. He said there should not be releases until the monitoring stations are installed.

Chairman McCarty asked if there are discharges now; Commissioner Broddrick said releases have been made in the past into sloughs. He believes that releases to the Drain have not yet begun.

Chairman McCarty directed staff to report to the Commission on the status of the San Luis Drain project and notify Mr. Horn about such a future meeting.

3. Minutes of June 27, 1996 Meeting.

On a motion by Commissioner Mello and a second by Commissioner Herendeen, the draft minutes were approved; Commissioners Thomson, Broddrick, Yates, and Calone abstained.

4. Chairman's Report.

Chairman McCarty reported the next Commission meeting will be Thursday, August 22, 1996, in the Jean Harvie Community Center, Walnut Grove. He announced the upcoming Pear Fair in Courtland.

5. Attorney General's Report.

There was no report.

6. Executive Director's Report.

Margit Aramburu announced the hiring of a new student assistant, Marnie Kagan, a student in biology and psychology at U.C. Davis; she said she met with Dave Cox, and the first 10,000 letters will be mailed this week, with the next 10,000 next week; she said she has been representing the Commission at Channel Islands Workshop, and the participants are continuing to refine a list of funding sources, a review of physical techniques for shoreline protection, a draft MOU for entities to sign, and a work plan; she announced the end of the year total for the 10% penalty fund for the entire fiscal year is: \$2577.15.

In addition, she noted that Ducks Unlimited noted a 28% increase in waterfowl over last year; Jim Nickles of the Stockton Record wrote an extensive report on the San Joaquin River in three sections; the endangered Winter Run Chinook Salmon increased to 1,361 fish in 1995; water storage in 155 major California reservoirs topped 34.8 million acre feet, the most since 1977, in 1977 a drought year, storage was 12.5 million acre feet. The State of the Estuary Conference is seeking papers, applications due July 31; the conference is October 10-12.

She noted that the mailing packet included information about SB 900, which will be on the November ballots; letters re SB 900 and in support of 2193, as directed at the last meeting; and a memo about Coast weeks and SHORELINE Cleanup Day, on September 21, 1996.

7. Pending Projects Memo.

Ms Aramburu said a federal project is under construction that has not been listed on the memo. Last October, Stone Lakes Wildlife Refuge completed environmental review on the second segment of the refuge. The project is south of the CalTrans mitigation bank and is a program to create 250 acres of new seasonal wetlands on the 457 acre Lewis/Vyronis property between I-5 and the old railroad right of way and north and south of the Laguna Boulevard exit.

Commissioner Mello noted that the pending projects memo indicates 48 lots proposed for Courtland and 30 lots proposed for Clarksburg.

8. Update on Status of Proposed Regulation and Proposed Amendment to the "Land Use and Resource Management Plan for the Primary Zone of the Delta" (Plan) Addressing Siting of Sewage Treatment Plants and Areas for Disposal of Sewage Effluent and Sewage Sludge.

Ms Aramburu said, as directed, she has polled the Commissioners based on attendance, recommends a vote for September.

She noted that Solano County has prepared a draft sludge ordinance, San Joaquin County has scheduled a workshop in August, and Yolo County has not released a draft. In addition, the City of Tracy is considering a proposal to divert washwater from the Heinz plant to agricultural land. One of the four sites under consideration is in the Primary Zone. She noted she had discussed Commission concerns with City staff.

She added that there is no information on the status of the lawsuit filed by Central Delta and South Delta water agencies against the State Water Board to nullify the permits for sludge disposal issued under the General Order; the State Board asked the attorneys who brought the suit to propose a settlement. A settlement has been submitted which would nullify permits in the Sacramento and San Joaquin River watersheds that are within 60 feet of groundwater or 600 feet of a waterway.

Chairman McCarty suggested coordinating with the South Delta Water Agency regarding the Heinz project.

Commissioner Mello said he had received information from Sacramento County that as of July 1, 1991, Courtland has had seven new hook-ups, capacity for 40 more and in Walnut Grove there have been 32 hook-ups and there is capacity for 70 more. In Clarksburg, there are only septic tanks and each lot also has a well. He expressed his concern about accommodating growth in the existing communities.

Chairman McCarty suggested that the communities need to develop plans to address sewage disposal to conform with a framework developed by the Commission. Commissioner Mello suggested there is no staff to develop such a plan. He noted he had suggested language which would accommodate sewage facilities to serve the existing communities in the Delta.

Commissioner McGowan suggested going back to the overall intent of the Act and work toward meeting those goals.

Ms Aramburu commented that staff will respond to all the comments that were submitted on this topic.

Chairman McCarty asked staff to provide clarification about the status of the existing unincorporated areas.

Commissioner McGowan suggested that the Commission's Plan and local governments should work together to protect the Delta.

Mr. Frank suggested that staff address some of the jurisdictional issues and report back to the Commission at the August meeting. He said these matters may affect pending legislation and may be appropriately addressed in a closed session.

9. Briefing on Conservation Easements on Agricultural Land.

Ms Aramburu said much of the focus of the Commission's enabling legislation focuses on agriculture and its role in the Delta. The Act states "The Delta is an agricultural region of great value to the state and nation and the retention and continued cultivation and production of fertile peat lands and prime soils are of significant value." The Act talks about the benefits of the agricultural land for migratory waterfowl using the Pacific Flyway as well as other Wildlife, and states "the continued dedication and retention of that Delta land in agricultural land contributes to the preservation and enhancement of open space and habitat values."

The Act states "The Legislature further finds and declares that the voluntary acquisition of wildlife and agricultural conservation easements in the Delta promotes and enhances the traditional Delta values of agriculture, habitat, and recreation" and under "Powers and Duties of the Commission" states "The Commission may promote, facilitate, and administer the acquisition of voluntary private and public wildlife and agricultural conservation easements in the Delta".

In the Commission's adopted Plan, a recommendation was included which states "A program by non-profit groups or other appropriate entities should be developed to promote acquisition of Wildlife and agricultural conservation easements on private lands with the goal of protecting agriculture and wildlife habitat in the Delta."

She said she has set up a couple of meetings of the existing non-profits to discuss their current programs and attended a meeting of Northern California land trusts, some of which are involved in conservation easements.

She noted that in preparation of the background reports, you reviewed some brief information about easements. The general idea is that the value of property is derived from a number of "rights" and that through one of several means, a landowner can voluntarily give up some of the "rights" associated with property to protect the long term use for agriculture. In most instances the change is permanent.

She introduced the speakers: Eric Vink, American Farmland Trust; Russ Matthews, San Joaquin Farm Bureau Federation; Chuck Tyson, Department of Conservation; and Steve Mello, North Delta Conservancy.

Chairman McCarty said the Plan recommends that lands in the Primary Zone be protected for agricultural use, however, there continues to be pressure on agricultural lands.

Eric Vink, California Field Director, American Farmland Trust (AFT), said AFT is a non-profit land trust working exclusively with agricultural landowners. He described conservation easements as permanent restrictions voluntarily agreed to by the landowner. AFT is primarily a policy group. Easements can be used to offset large incomes, or for estate tax benefits, or to receive income from the sale of the easement. He said these programs are not for everyone and should be very carefully considered. He said the programs are largely publicly funded. In California, state bond funds have been used, and in Sonoma County a sales tax was approved by the voters. He said easements are private property rights and landowner friendly. In addition, AFT works with the existing local land trusts. (Mr. Vink passed out three documents.)

Because the speaker had to leave, Mr. Vink described the Yolo Land Conservation Trust. He said the Trust has been in existence since 1988, works countywide, with the purpose of supporting agricultural conservation easements. The Trust has gotten involved in serving as the agent for local governments that require mitigation for projects that affect agricultural land, and will hold the conservation easements. This may be a new approach for the local land trusts.

Chuck Tyson, Department of Conservation, Office of Land Conservation, described a new program created by SB 275 (Costa), the Agricultural Land Stewardship Program. It is a competitive grants program for non-profits and local governments that have existing conservation easement programs; the Department will not hold the conservation easements. Many of the details of the program are included in the legislation. One million dollars has been included in the current budget for the program; 90% is to be dedicated for conservation easements and 10% is for land restoration work on lands with easements. The program is strictly voluntary, with provisions for ending the easements after 25 years, and possible shorter term easements. Mr. Tyson noted that one million dollars is "seed" money and will only fund a small program.

Mr. Tyson noted that the recently approved federal 1996 Farm Bill includes funds for conservation easements to go to states with approved programs; this program will qualify California to receive such funds.

Steve Mello, representing the North Delta Conservancy, said the Conservancy incorporated in 1992 with the assistance of AFT, the seed money came about from a lawsuit resulting in a \$50,000 grant went to the Conservancy. There is no paid staff; there is a diverse community-based Board. The sphere of influence is about 80,000 acres--the Delta Primary Zone in Sacramento County. Projects underway to date include wood duck boxes and an egg rescue program. The Conservancy has held several workshops on conservation easements, cover crops, and the egg rescue program. The Conservancy has developed and adopted model language for a conservation easement. No conservation easements have been acquired to date (a copy of the language was circulated).

Russ Matthews, San Joaquin Farm Bureau Federation, representing 5,000 citizens, said Farm Bureau is supportive of voluntary programs which include education, and state programs, and is appreciative of the efforts of AFT. He agreed that easements are not for everyone, but can be a helpful tool.

He said many easements are for habitat, such as the San Joaquin County Habitat Conservation Plan. Farm Bureau has been involved in ensuring that easements are addressed on a case by case basis to address the needs and activities of the landowner. For example, a habitat easement that restricts vineyards may not be satisfactory to a landowner in grape growing areas. Farm Bureau supports acknowledgment of the habitat values of agricultural land. He understands that there will be limits or restrictions to support a specific species, but the more the restrictions, the greater the impact, thus value, of the easement. He commented that the landowner and the market play the greatest role in determining use of agricultural lands, and that should continue.

The Farm Bureau is supportive of easements if the owner is willing and can control constraints. He noted there is work underway to craft easement language that provide true agricultural land protection. He suggested that the new funding programs will help support true conservation of agricultural resources.

Commissioner Mello asked what percent of the Department of Conservation fund is for administration; Mr. Tyson said up to 14% until the fund reaches seven million.

Commissioner McGowan asked about the AFT studies of urban pressures on agricultural lands; Mr. Vink said the most recent report was released in October 1995. Using population projects, the study projected population growth impacts to 11 counties using current

development at four dwelling units per acre and comparing that to development at seven dwelling units per acre. The state projects growth from four million to 12 million persons by 2040 in these 11 counties; the growth would result in loss of over one million acres of agricultural lands.

Mr. Matthews said in California, there is a pattern of neglecting to develop infrastructure needed for development. For example, new development should not be allowed without development of new water storage.

Commissioner Broddrick said that most new growth will be in southern California and the Bay Area, areas which depend upon the Delta or existing reservoirs for water; the demands for water will triple in these areas. There will be a cumulative impact of loss of agricultural lands and increased demand for water. He said the Valley and the urban areas must work together to resolve these problems.

He also responded to Mr. Matthews and supported combining agricultural preservation with habitat preservation; developing mitigation that can address both types of loss. He said there are more mutual challenges and interests than conflicts. He said mitigation can also combine riparian issues, flood control issues, etc. that respect the needs of the individual land managers.

Commissioner Broddrick asked what funds were designated for the Department of Conservation easement program; Mr. Tyler said Environmental License Plate Funds. He asked about the 10% land restoration program; Mr. Tyler said the work must support land productivity. He asked how values are developed; Mr. Tyler said an application must include an appraisal of the current value and the value after an easement is in place.

Mr. Matthews described a workshop with ten landowners with have easements on their land. After the workshop, the landowners commented that the value to the landowner at the time of the agreement was different (lower) than currently valued by the landowner. A simple appraisal may not be adequate to determine the value of lands or easements. He believes there will be a shortfall in funding for these programs. He also commented on permanent easements--some easements, particularly for habitats, need to be permanent; however, there needs to be some flexibility to address the future. In addition, easements for habitat and lands around those areas should also be based on known factors for species. That approach will protect adjoining landowners and make easements more acceptable generally.

Chairman McCarty the Primary Zone of the Delta would allow large tracts of land to be managed, but management may change over time. Historically, easements have been acquired on small, non-contiguous areas. He suggested developing additional criteria for the size of easement areas to support better, more comprehensive management of Delta resources.

Commissioner Broddrick commented that some small projects have not worked well and small projects are now allowed to pay into a larger mitigation "bank" site. He said very few communities have spent the time and money to develop criteria to develop functional, sustainable areas for long-term protection of habitat in an area. He supports this type of pre-planning.

He also added acknowledgment of Charlie Jensen as part of the North Delta Conservancy egg rescue program.

Chairman McCarty thanked the participants and asked staff to write a letter of apology to Yolo County Conservation Trust for the confusion over the time of the meeting.

There were no public comments.

10. Possible Commission Adoption of Position on Pending Legislation:  
AB 360 (Hannigan)

Ms Aramburu said the bill has changed considerably from when first submitted. It still includes the provision to include "project" levees in the levees subvention program. In addition, the bill now extends the SB 34 levee subventions program and is a companion bill to SB 900. That means that AB 360 will not take effect until or unless SB 900 is approved by the voters in November. The revised bill includes several elements which the Commission has supported in its adopted Plan. This includes: emergency plan preparation in case of threats to levees; continued subsidence research; and develop Delta levees habitat management guidelines.

Chairman McCarty opened the public hearing; there were no public comments. Chairman McCarty closed the public hearing.

Commissioner McGowan asked for a recommendation from staff. Ms Aramburu said she would recommend support.

Commissioner McGowan moved support of the legislation; seconded by Commission Mello. There was unanimous approval; Commissioner Yates abstained.



Commissioner Mello expressed surprised at how the bill had been changed since it was requested by the North Delta Water Agency.

11. Commissioner Comments.

Chairman McCarty recognized the attendance of Bill Curry from the Department of Boating and Waterways.

12. Adjourn.

The meeting was adjourned at 8:25 p.m.